

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of

DIRECTOR, DEPARTMENT OF LABOR
AND INDUSTRIAL RELATIONS,

Complainant,

v.

AMERICAN HONOLULU CONSTRUCTION, LTD.,

Respondent.

CASE NO. OSH 2008-2

ORDER NO. 277

PRETRIAL ORDER

PRETRIAL ORDER

Pursuant to the initial conference in this matter held by the Hawaii Labor Relations Board (Board) on March 13, 2008, and attended by J. Gerard Lam, Deputy Attorney General, for Complainant, and Richard Cheng, for Respondent, IT IS HEREBY ORDERED THAT:

1. The issues to be determined at trial are as follows:
 - A. Whether Citation 1, Item 1, including the associated penalty of \$375.00, resulting from Inspection No. 310393202, was valid and proper.

Citation 1, Item 1 alleged:

29 CFR 1926.501(b)(1) [Refer to chapter 12-121.2, HAR] was violated because:

An employee was on top of the roof installing the Hip cap onto the roof about one foot from the roof's edge. The employee was about 30' high above the ground without fall protection and could get seriously injured.

- B. Whether Citation 1, Item 2, including the associated penalty of \$225.00, resulting from Inspection No. 310393202, was valid and proper.

Citation 1, Item 2, alleged:

29 CFR 1926.1053(b)(1) [Refer to chapter 12-154.1, HAR] was violated because:

An employee used a Husky 8' high step ladder that was about one foot below the top of the roof for his access up onto the roof. The employee could slip off of the inadequate access ladder and fall onto the lower roof below and get seriously injured.

- C. Whether Citation 2, Item 1, resulting from Inspection No. 310393202, was valid and proper.

Citation 2, Item 1, alleged:

29 CFR 1926.503(b)(1) [Refer to chapter 12-121.2, HAR] was violated because:

The employer could not provide a written fall protection training certificate for an employee who was on top of the roof installing the Hip cap onto the roof about one foot from the roof's edge. The employee was about 30' high above the ground without fall protection and could get seriously injured.

2. The deadline for the parties' final naming of witnesses is **April 18, 2008**. Each party shall provide a list of the names of witnesses it plans to call at trial, along with the witnesses' addresses and brief summary of expected subject of their testimony, to the other party and to the Board by this date. Each party shall also exchange any expert witness reports by this date.
3. The discovery cutoff date is **May 16, 2008**. All other discovery and information requests, including depositions and document requests, must be completed by this date.
4. Trial in this matter is scheduled for **June 17, 2008 at 9:00 a.m.**, in the Board's hearing room located at Room 434, 830 Punchbowl Street,

Honolulu, Hawaii, 96813. The trial will continue from day-to-day until completed.

5. Hereafter, this Pretrial Order shall control the course of proceedings and may not be amended except by consent of the parties and the Board, or by order of the Board.

DATED: Honolulu, Hawaii, March 14, 2008.

HAWAII LABOR RELATIONS BOARD



JAMES B. NICHOLSON, Chair



EMORY J. SPRINGER, Member



SARAH R. HIRAKAMI, Member

NOTICE TO EMPLOYER

You are required to post a copy of this Order at or near where citations under the Hawaii Occupational Safety and Health Law are posted at least five working days prior to the trial date. Further, you are required to furnish a copy of this Order to a duly recognized representative of the employees, if any, at least five working days prior to the trial date.

Copies sent to:

J. Gerard Lam, Deputy Attorney General
Richard Cheng